

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MASSACHUSETTS

CA #: 04CV12058WGY

BETTE J. RIVARD, as Administratrix of)
the Estate of John A Horton,)
Plaintiff)
)
v.)
)
DARTMOUTH HOUSE OF CORRECTION,)
BRISTOL COUNTY, JOHN DOE, RICHARD ROE,)
Bristol County Employees the identity and number)
of who is presently unknown to the Plaintiff)
Defendants)
)
v.)
)
PRISON HEALTH SERVICES, INC. and)
CORRECTIONAL HEALTH CARE SOLUTIONS, INC))
Third Party Defendants)
)

DEFENDANT PRISON HEALTH SERVICE'S MOTION FOR COURT ORDER
REGARDING PRODUCTION OF CRIMINAL RECORDS
OF CIVILIAN WITNESSES

Prison Health Services (hereinafter PHS) moves this Honorable Court (1) to order the Plaintiff to provide to counsel for PHS the social security numbers and dates of birth of the persons other than her experts who plaintiff intends to call as witnesses at trial; and, (2) to order the Massachusetts Criminal History Systems Board (hereinafter the "Board") to provide counsel for the defendants with copies of the criminal histories of these individuals.

PHS requires notice of the above persons criminal histories in order to obtain certified copies of their criminal convictions (if any) so that PHS may ask

this Honorable Court for the opportunity to impeach their credibility during the trial pursuant to Fed. Rules Evid. Rule 609(a)(1), 28 U.S.C.A. See Green v. Bock Laundry Machine Co., 490 U.S. 504, 109 S.Ct. 1981. (A civil witness may be impeached with “evidence of prior felony convictions,” despite the possibility of unfair prejudice to either the testifying witness or the party offering the testimony.)

In this matter, the plaintiff, alleges that the County provided inadequate medical care to an inmate, John Horton, which caused his death. During discovery, Plaintiff has named as potential witnesses past or present inmates. If the Court allows this request, counsel for PHS would maintain the confidentiality of this information, and would seek the Court’s approval to use these convictions during the trial before the trial begins by filing a motion in limine. Further, the Board will not provide counsel for the defendants with copies of the criminal history reports absent either the individual’s consent or an order from the Court. To date, PHS has not had an opportunity to obtain these person’s consent.

WHEREFORE, PHS respectfully requests that this Honorable Court order the Plaintiff to provide to counsel for PHS the social security numbers and dates of birth of the persons, other than her experts, who plaintiff intends to call as witnesses at trial, and the Massachusetts Criminal History Systems Board to provide counsel for the defendants with copies of the criminal histories of these individuals. A proposed order is attached hereto as **Exhibit A**.

Respectfully submitted,

Prison Health Services, Inc
By its attorneys,

/s/ Mary Eiro-Bartevyan
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CERTIFICATE OF SERVICE

I, Mary Eiro-Bartevyan, attorney for Prison Heath Services, Inc. hereby certify that I have this 1st day of September 2005, forwarded a copy of the foregoing, *Prison Health Services, Inc's. Motion For Court Order Regarding Production Of Criminal Records Of Civilian Witnesses*, postage prepaid, to:

Plaintiff's Counsel
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/s/ Mary Eiro-Bartevyan
Mary Eiro-Bartevyan

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